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In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

No. 1034

HASKELL BILLY,
Appellant,

VERSUS

STATE OF OKLAHOMA,
Appellee.

JURISDICTIONAL STATEMENT

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March, 1965

UTTERBACK TYPESETTING CO., 13 SO. WALKER, OKLAHOMA CITY, PH. CE 5-8780

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COMES NOW the Appellant praying an appeal herein, and for grounds and cause of jurisdiction, states:

That the only material part of the record here involved is the Information, and a printed copy thereof is hereto attached, marked Exhibit "A."

That in the course of the evolution of the Common Law of England, upon banning the Star Chamber trials, it was enacted that no man should be put on trial for a criminal offense save that he be apprised of the exact nature of the charge against him and be granted a speedy and public trial.

That in the orderly organization of this Government and in the development of its philosophy, it was provided:

That no person should be deprived of life, liberty or property without due process of law.

That in criminal cases, it is the general policy of the law to provide such notice as is required by due process of law to a defendant, by an information or indictment.

That in Oklahoma, under its Title 47, O.S.A., Section 23.1, appears a Statute enacted to define motor vehicles, and it is in words and figures, as follows, to-wit:

> "Motor Vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails or stationary tracks."

That Title 47, O.S.A., in its Section 93, reads as follows:

> "It shall be unlawful for any person who is under the influence of intoxicating liquor, or who is an habitual user of veronal, barbital, nembutal, sodium-amatal, or other barbitrate, or barbituric acid preparations, chloralhydrate, bromide, benzedrine, or amphetamine preparations, or narcotic drugs, to operate or drive a motor vehicle on any highway within this State, as defined in Section 1, of the Act (10322) and any person violating the provisions of this Section shall be deemed guilty of a misdemeanor for the first offense and upon conviction therefor shall be punished by imprisonment in the county jail for a period of time not to exceed one (1) year, or by a fine of not more than Five Hundred ($500.00) Dollars or by both such fine and imprisonment * * *."

That, in attempting to charge the defendant with the offense announced by said last above quoted Statute, the

County Attorney of Oklahoma County filed an Information, which, in its charging part, is as follows:

> "That is to say, the said defendant, in the county and state aforesaid, and on the day and year aforesaid, then and there being, did then and there wilfully, wrongfully and unlawfully, run, drive and operate a 1956 Mercury motor vehicle, bearing 1962 Oklahoma License No. 1-176721, at and upon a public street from an unknown point to a point at 1st and North Western, Oklahoma City, in said county and state, while under the influence of intoxicating liquor."

As is readily apparent therefrom, said Information does not charge that the appellant here (defendant below) did "operate or drive a motor vehicle on any highway within this State * * *."

That, therefore, to try the defendant as he was tried, with no more information than this, discloses a purpose to convict him, if he came from any point of the compass, depriving him of that notice and information required by due process of law, to enable his defense.

That of late, this Honorable Court has asserted the paramount importance of the right of persons above the right of things and has reassumed its prerogative to perpetuate liberty by enforcing the Constitution.

That great indulgence has been extended toward the State and State officers, in matters of this sort, to the point of threatened destruction of human liberty.

WHEREFORE, this appellant prays that this Honorable Court take jurisdiction hereof and reverse the Court of Criminal Appeals of Oklahoma, to the end that justice may be done.

Respectfully submitted,

SID WHITE
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Attorney for Appellant

March, 1965